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| APPLICATION NO.                        | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/642,632                             | 08/19/2003  | Akira Tanaka         | 500.43031X00        | 3748             |
| 20457                                  | 7590        | 03/16/2007           | EXAMINER            |                  |
| ANTONELLI, TERRY, STOUT & KRAUS, LLP   |             |                      | KALAFUT, STEPHEN J  |                  |
| 1300 NORTH SEVENTEENTH STREET          |             |                      | ART UNIT            | PAPER NUMBER     |
| SUITE 1800                             |             |                      | 1745                |                  |
| ARLINGTON, VA 22209-3873               |             |                      |                     |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE |             | MAIL DATE            | DELIVERY MODE       |                  |
| 3 MONTHS                               |             | 03/16/2007           | PAPER               |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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|                              |                                |                  |  |
|------------------------------|--------------------------------|------------------|--|
| <b>Office Action Summary</b> | Application No.                | Applicant(s)     |  |
|                              | 10/642,632                     | TANAKA, AKIRA    |  |
|                              | Examiner<br>Stephen J. Kalafut | Art Unit<br>1745 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 December 2007.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2 and 4-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1,2,4-13,15 and 16 is/are allowed.  
 6) Claim(s) 14 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is unclear as to whether the phrase “connected to each other through the membrane electrode assembly” requires direct contact between the two contact members, or only indirect contact, with the MEA being located between the two. The former interpretation would be confusing because it would contradict the phrase “prevented from contacting each other”. The phrase “through the membrane electrode assembly” appears to modify both “are prevented from contacting” and “connected to each other”, thus implying that opposite conditions are true within the same area.

Claim 14 is rejected under 35 U.S.C. 102(e) as being anticipated by Dristy *et al.* (US 6,926,988), for reasons of record.

Claims 1, 2, 4-13, 15 and 16, for reasons of record, are allowed.

Applicant's arguments filed 14 December 2006 have been fully considered but they are not persuasive.

Applicant argues that the two contact members of Dristy *et al.* “do not appear to be connected to each other, as set forth in independent claim 14”. This is not persuasive because the claim is unclear as to whether the two contact members are required to be in direct contact through the MEA, or may merely be in indirect contact, where each is deposited on a side of the MEA. This is shown in present figure 1, where the contacts are mutually separated by the MEA,

but are in direct contact only outside of the MEA, and thus not through it. Likewise, the two contacts of (56, 60) Dristy *et al.* are disposed on opposite sides of their MEA, and would be in indirect connection through that MEA. Moving the phrase "through the membrane electrode assembly in the pressing direction" to a position between "prevented from contacting each other" and "connected to each other" is suggested. Thus, the contacts are prevented from directly contacting each other through the MEA, but are connected to each other within the head surface area of the pressing member.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



STEPHEN KALAFUT  
PRIMARY EXAMINER  
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